

DATE: NOVEMBER 30, 2016

TO: ALL INTERESTED PARTIES

/s/ SUZANNE M. AMBROSE

FROM: Suzanne M. Ambrose
Executive Officer

SUBJECT: NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATIONS

Notice is hereby given that the State Personnel Board (Board) has made changes to the proposed text for the Classifications, Examinations, and Selection Regulatory Package, sections 27, et seq., of Title 2, Chapter 1, of the Code of Regulations (CCR). The changes are in response to comments received during the 45-day public comment period, which was held June 28 through August 22, 2016, and at the public hearing held on August 24, 2016. The Board has also made nonsubstantive changes for consistency and clarity.

I.

CHANGES

PROPOSED SECTION 75.3 is amended to clarify the roles of the Board and the California Department of Human Resources (CalHR or the Department) regarding the Classification Plan.

PROPOSED SECTION 76.3 is amended by deleting the phrase “natural or learned” as unnecessary.

PROPOSED SECTION 78.2 is added to clarify the meaning of “reemployment list.”

PROPOSED SECTION 83.4 is deleted as unnecessary.

PROPOSED SECTION 83.4 is added to clarify the meaning of “merit and fitness.”

PROPOSED SECTION 85 is added to clarify the obligations of state agencies under any applicable federal or state laws or regulations concerning persons with disabilities, upward mobility for state employees, or equal employment opportunity for any protected class.

PROPOSED SECTIONS 86 and 86.1 are added to clarify that appointments and the creation of lists shall be based on merit and fitness.

PROPOSED SECTION 86.2 is added to clarify the purpose and significance of the probationary period.

PROPOSED SECTION 86.3 is added to clarify that fair and equitable treatment is required in all phases of the selection process.

PROPOSED SECTION 89 is amended to clarify the scope of review of the Classification Plan. Other amendments are technical and stylistic.

PROPOSED SECTION 89.2 is amended to clarify that subdivision (a)(5) applies to “any protected class.”

PROPOSED SECTION 89.4 is amended to ensure that the class specification format includes “supervision received or exercised.” Other amendments are technical and stylistic.

PROPOSED SECTION 89.6 is amended to clarify that when any class is abolished all lists associated with the class shall be abolished.

PROPOSED SECTION 171.1 is amended to ensure that (1) the 173.33 hours of actual time worked is clear and consistently applied when determining the years and months worked; (2) the calculation of hours worked in more than one job concurrently is clear and consistently applied; (3) experience credit is clear and consistently applied; (4) overtime hours is credited as additional time; and (5) potential confusion with other laws and rules concerning leaves of absence is avoided. Other amendments are technical and stylistic.

PROPOSED SECTION 171.3 is deleted to avoid any potential confusion or conflict with classification specifications.

PROPOSED SECTION 174, operative on July 1, 2017, is amended to clarify that testing materials shall not be returned to applicants.

PROPOSED SECTION 193 is amended to clarify that the formula rating is applied to the information and data given by the competitor. The regulation is also amended to clarify that the appraisal may be made with or without an interview.

PROPOSED SECTION 193.1 is amended to ensure that the scoring and ratings for examinations is based upon assessing, comparing, and ranking the qualifications and performance of candidates with other candidates and the qualifications of the classification that is the subject of the examination. The regulation is also amended to clarify that the standards set forth in the rule apply to Career Executive Assignment (CEA) examinations. Other amendments are technical and stylistic.

PROPOSED SECTION 193.2 is amended to clarify the exam rating considerations for education and experience.

PROPOSED SECTION 194 is amended to clarify the ranking and scoring of candidates. The regulation is also amended to clarify that a Limited Three Score Examination is not required for every examination.

PROPOSED SECTION 195 is amended to ensure that the composition of qualifications appraisal panels is no less than two members and that consideration shall be given to selecting members who represent the diversity of the State civil service workforce.

PROPOSED SECTIONS 195.1 and 195.2 are amended to ensure that QAP interviews are structured and that ratings are competitive and based upon a comparison of the qualifications of the candidates with other candidates and the qualifications of the classification that is the subject of the exam.

PROPOSED SECTION 195.3 is added to ensure clarity in situations where the only reason for eliminating a candidate from a QAP exam is a determination that the candidate failed to satisfy the minimum qualifications of the class that is the subject of the exam.

PROPOSED SECTION 242 is amended to clarify under what circumstances an appointing power may promote an employee in place. Other amendments are technical and stylistic.

PROPOSED SECTION 249.2 is amended to clarify that postings of job announcements on websites may include career center, career fair, or academic institution websites.

PROPOSED SECTION 249.3 is amended to ensure that the meaning of identical vacancies includes the same time base, tenure, and duties. Given these changes, "grade" is deleted as unnecessary.

PROPOSED SECTION 249.4 is amended to ensure that verification of minimum qualifications prior to appointment excludes appointments made from reemployment lists or appointments based upon mandatory reinstatement rights. The regulation also clarifies the standards to follow where a candidate fails to answer within the specified timeframe. Other amendments are technical or stylistic.

PROPOSED SECTION 249.5 is amended to clarify prohibited requests or statements when sending employment inquiries.

PROPOSED SECTION 249.6 is amended to ensure that during the hiring process any employee who acts as a human resources or personnel liaison shall not receive documents containing candidate confidential information, unless the confidential information has been redacted or removed.

PROPOSED SECTION 249.7 is amended to ensure that once a candidate has been selected and a tentative offer of employment extended, the selected candidate's appointment eligibility may be disclosed but only to those employees who are required to know the basis of eligibility in order to complete the formal appointment process. For clarity, the regulation is also amended to add reference to "by way of a list, transfer, or LEAP." For clarity and consistent application of the regulation, reference to voluntary disclosure of the basis of eligibility has been deleted.

PROPOSED SECTION 250 is amended to avoid confusion by deleting reference to "some form." To ensure fairness and consistency, the regulation is also amended to add that persons selected for appointment shall satisfy the minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in the same classification. For consistency, reference to voluntary demotions is deleted.

PROPOSED SECTION 250.1 is renumbered to section 250.2. This is a technical change only.

PROPOSED SECTION 265 is added to address the situation, particularly in rural areas, where employment lists have three or fewer names. This is necessary to ensure the needs of state civil service are satisfied.

PROPOSED SECTION 265 is renumbered to section 265.1. To clarify and simplify the counting of time for temporary appointments, the counting method has been changed to a daily basis with 21 days worked counting as one month or 189 days equaling 9 months. Other amendments are technical or stylistic.

II.

SUBMISSION OF WRITTEN COMMENTS

The Board will accept written comments between December 1 and December 15, 2016, regarding the proposed changes that are the topic of this 15-Day Notice or that relate to proposed sections 548.40, 548.41, 548.42, or 548.70. All written comments must be submitted and received by the Board **no later** than 5:00 p.m. on December 15, 2016. If you wish to provide written comments, please submit your comments via facsimile, email, or mail to the following:

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15-Day Notice Of Modification
To Text Of Proposed Regulations

All written comments received no later than 5:00 p.m. on December 15, 2016, which pertain to the indicated changes or relate to the afore-stated proposed sections will be reviewed and responded to by the Board as part of the compilation of the rulemaking file. Please limit your comments as specified herein.